

No. 11(112)-3 Lab.-80/2429.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. Janta Steel and Metal Co-operative Industrial Society Ltd., Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL, HARYANA, FARIDABAD
Reference No. 518 of 1978.

• between

SHRI JABBAR ANSARI, WORKMAN AND THE
MANAGEMENT OF M/S. JANTA STEEL AND
METAL CO-OPERATIVE INDUSTRIAL
SOCIETY LTD., FARIDABAD

Present :

Shri P. K. De for the workman.

Shri S. L. Gupta, for the management.

AWARD

1. By order No. ID/FD/1/194-78/48846, dated 27th October, 1978, the Governor of Haryana referred the following dispute between the management of M/s. Janta Steel and Metal Co-operative Industrial Society Ltd., Faridabad and its workman Shri Jabbar Ansari to this Tribunal, for adjudication in exercise of the power conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act.

Whether the termination of services of Shri Jabbar Ansari was justified and in order ? If not, to what relief is he entitled ?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 4th June, 1979:—

1. Whether the workman has abandoned his job of his own?
2. Whether the workman is gainfully employed ? If so to what effect ?
3. Whether the termination of services of the workman was justified and in order ?
4. Relief.

And the case was fixed for the evidence of the management. The management obtained 7 or 8 adjournments, but lastly a settlement was arrived at between the parties. According to the settlement the workman received a sum of

Rs. 575 in full and final settlement of the dispute from the management. Ex. M-1 is the receipt executed by the workman of the said sum for Rs. 575 only. Ex. M-2 is an application of the workman to the management for paying him for his accounts in full and final settlement. The workman has agreed,—vide Ex. M-3, that he shall have no claim whatsoever after the settlement. I, therefore, fix my award that the workman has settled his dispute and has received a sum of Rs. 575 in full and final settlement of the dispute and in the circumstances termination of services of the workman is justified and in order. He is not entitled to any relief.

Dated, the 13th February, 1980.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

Endst. No. 159, dated 19th February, 1980.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments Chandigarh, as required under section 15 of the Industrial Disputes Act.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

No. 11(112)-3Lab-79/2432.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Puran Industries, JESICO Colony, Jaroda Gate, Jagadhri.

BEFORE SHRI BANWARI LAL DALAL,
PRESIDING OFFICER, LABOUR COURT,
ROHTAK

Reference No. 170/78

SHRI RAM KUMAR, WORKMAN AND THE
MANAGEMENT OF M/S PURAN INDUSTRIES
(PURAN ENGINEERING WORKS)
JESICO COLONY, JARODA GATE,
JAGADHRI

No one for the workman.

Shri Subhash Chander for the management.

AWARD

By order No. ID/VMN/54-78/34001, dated 20th July, 1978 of the Governor of Haryana, the following dispute between the management of M/s Puran Industries (Puran Engineering

Works) Jesico Colony, Jaroda Gate, Jagadhri and its workman Shri Ram Kumar was referred for adjudication to the Court in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of service of Shri Ram Kumar was justified and in order ? If not, to what relief is he entitled ?

On receipt of order of reference usual notices were sent to the parties. The parties appeared through their authorised representatives. The workman filed his claim statement and the management filed their written statement. The workman's representative did not file the rejoinder and the issues as per reference was framed by my learned predecessor and the case was fixed for evidence of the management. On 28th June, 1979, the parties wanted time for settlement. The management filed a receipt dated 4th February, 1978 duly signed by the workman concerned which the management got executed from the workman at the time of conciliation proceedings. The workman's representative was directed to verify from the workman about this receipt and the settlement arrived at between the parties as alleged by the management. When the case was taken up on 28th December, 1979, no one appeared on behalf of the workman. Shri Surinder Kumar, the authorised representative of the workman was present and appeared in other case on that day. Intentionally avoided to appear in this case and the case was taken up thrice and was finally dismissed at 3.00 p.m. for default and for non-prosecution. As there was no other address on the file except that of the authorised representative of the workman. I did not consider it necessary to issue fresh notice to the workman on that very address. I am of the view that the workman has settled his claim with the management per receipt dated 4th February, 1978 filed by the management and he did not pursue his case any further and on this reason neither the workman nor his authorised representative appeared on 28th November, 1979. I, therefore, make no dispute award in answer to this reference and return the same in these terms.

Dated 29th January, 1980.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Rohtak.

Endstt. No. 483 dated 19th February, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Department, Chandigarh as required under section 15 of Industrial Disputes Act.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Rohtak.

No. 11(112)-3Lab-79/2436.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Elite Cinema, Hissar.

BEFORE SHRI BANWARI LAL DALAL,
PRESIDING OFFICER, LABOUR COURT,
ROHTAK

Reference No. 275 of 1978

between

SHRI JACKSON, WORKMAN AND THE
MANAGEMENT OF M/S ELITE CINEMA,
HISSAR

Present :

Shri Tek Chand Gupta for the workman.
No one for the respondent management.

AWARD

By order No. ID/HSR/46-78/42930, dated 25th September, 1978 of the Governor of Haryana, the following dispute between the management of M/s Elite Cinema, Hissar and its workman Shri Jackson was referred for adjudication to this Court in exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of Shri Jackson was justified and in order ? If not, to what relief is he entitled ?

On receipt of order of reference usual notices were issued to the parties for 27th November, 1978. Notice to the management could not be effected on this hearing and the case was adjourned for notice to the respondent for 27th December, 1978 and on two occasions the tour programme of Presiding Officer was cancelled. The case was taken up on 26th February, 1979. The management did not file the written statement. On 30th April, 1979 no one appeared on behalf of the management and the case was taken at 11.35 a.m. and ex parte orders were passed against the management. Later on,

the authorised representative of the management appeared on behalf of the management and the *ex parte* orders were set aside on the same date subject to cost of Rs. 50 and the case was adjourned for 28th May, 1979 for filing written statement by the management. On this day also no one was present on behalf of the management. Again *ex parte* orders were passed against them and the workman was asked to lead his *ex parte* evidence on 22nd June, 1979. At last on 20th August, 1979, Shri Jackson, the workman was examined as his own witness. He stated that he was employed four years ago in M/s Elite Cinema, Hissar as Assistant Operator and received Rs. 210 per month as his wages. His services were terminated on 26th June, 1978 by the management. The management did not issue any show cause notice nor charge-sheeted him. He served the management with a demand notice on which Conciliation proceedings were initiated,—vide his letter Ex. W-1. The management has refused to take him back on duty, and his case has been referred for adjudication to the Court. He further stated that he is not employed anywhere. The management did not avail of the opportunity to defend the demand made by the workman. The management did not file any written statement for controverting the claim of the workman nor they led any evidence. Under these circumstances it is natural to be presumed by the act and behaviour of the management that they admit the claim of the workman and statement of the workman shall be relied upon and more so when it is made *ex parte*. The workman is therefore, entitled to reinstatement with continuity of service and with full back wages and the order of termination is neither justified nor in order.

I answer the reference while returning the award in these terms.

Dated 30th January, 1980.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Rohtak.

Endstt. No. 440, dated 19th February, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Rohtak.

No. 11(112)-3Lab-80/2437.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the management of M/s Puran Industries (Puran Engg. Works), Jesico Colony, Jaroda Gate, Jagadhri.

BEFORE SHRI BANWARI LAL DALAL,
PRESIDING OFFICER, LABOUR COURT
ROHTAK.

Reference No. 169/78

SHRI CHAMAN LAL, WORKMAN AND THE
MANAGEMENT OF M/S PURAN INDUSTRIES
(PURAN ENGINEERING WORKS)
JESICO COLONY, JARODA GATE, JAGADHRI

No one for the workman.

Shri Subhash Chander for the management.

AWARD

By order No. ID/YMN/55-78/33995, dated 20th July, 1978, of the Governor of Haryana, the following dispute between the management of M/s Puran Industries (Puran Engineering Works) Jesico Colony, Jaroda Gate, Jagadhri and its workman Shri Chaman Lal was referred for adjudication to the court in exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of service of Shri Chaman Lal was justified and in order?

If not, to what relief is he entitled?

On receipt of order of reference usual notices were sent to the parties. The parties appeared through their authorised representatives. The workman filed his claim statement and the management filed their written statement. The workman's representative did not file the rejoinder and the issues as per reference was framed by my learned predecessor and the case was fixed for evidence of the management. On 28th June, 1979, the parties wanted time for settlement. The management filed a receipt dated 4th February, 1978 duly signed by the workman concerned which the management got executed from the workman at the time of Conciliation proceedings. The workman's representative was directed to verify from the workman about this receipt and the settlement arrived at between the parties as alleged by the management. When the case was taken up on 28th December, 1979, no one appeared on behalf of the workman. Shri Surinder Kumar, the authorised representative of the workman was present and appeared in

other cases on that day. Intentionally avoided to appear in this case and the case was taken up thrice and was finally dismissed at 3.00 p.m. for default and for non-prosecution. As there was no other address on the file except that of the authorised representative of the workman. I did not consider it necessary to issue fresh notice to the workman on that very address. I am of the view that the workman had settled his claim with the management per receipt dated 4th February, 1978 filed by the management and he did not pursue his case any further and on this very reason neither the workman nor his authorised representative appeared on 28th November, 1979. I, therefore, make no dispute award in answer to this reference and return the same in these terms.

Dated 29th January, 1980.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Rohtak.

Endstt. No. 442, dated 19th February, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour & Employment Department, Chandigarh as required under section 15 of Industrial Disputes Act.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Rohtak.

The 7th March, 1980.

No. 11(112)-3 Lab.-80/4128.—In pursuance of the provision of section 17 of the Industrial Dispute Act, 1947 (Act XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. Auto Pins (India) Regd. Plant-II, Mathura Road, Faridabad.

BEFORE SHRI NATHU RAM SHARMA,
PRESIDING OFFICER, INDUSTRIAL
TRIBUNAL HARYANA, FARIDABAD.

Reference No. 499 of 1978.

Between

SHRI RAM PHER, WORKMAN AND THE
MANAGEMENT OF M/S. AUTO PINS (INDIA)
REGD. PLANT-II, MATHURA ROAD,
FARIDABAD.

Present :—

Shri P. K. De for the workman.

Shri R. C. Sharma, for the management.

AWARD

1. By order No. ID 175-78/47984, dated 23rd October, 1978, the Governor of Haryana, referred

the following dispute between the management of M/s. Auto Pins (India) Regd. Plant-II, Mathura Road, Faridabad and its workman, Shri Ram Pher, to this Tribunal, for adjudication, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Ram Pher was justified and in order ?
If not, to what relief is he entitled ?

2. On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of parties, following issues were framed on 13th June, 1979:—

1. Whether the termination of services of Shri Ram Pher was justified and in order ? If not, to what relief is he entitled ?
2. Whether the plant has been taken over by another management ? If so, to what effect ?
3. Whether the domestic enquiry is fair and proper ?

And the case was fixed for the evidence of the management. The management examined Shri Ram Avtar, Labour Officer, of M/s. East India Cotton Mills of Faridabad as M.W.-1, who stated that he was Assistant Personnel Officer of the management. He was appointed Enquiry Officer to enquire into the charges levelled against the workman. He proved the charge sheet, his enquiry proceedings and finding and other documents Ex. M-5 to Ex. M-9. He stated that the workman participated in the enquiry which he held and he recorded all the facts at the enquiry. The workman had left the enquiry at the stage when Shri Walia was being examined. Ex. M-10 is the Standing Order. The management closed their case. Then the case was fixed for the evidence of the workman. The workman stated that he was active member of the union and was charge-sheeted on ground of trade union activities. He admitted that the management held the enquiry and that the Enquiry Officer did not issue him letter and did not give him facilities what he demanded. He admitted that he had participated in enquiry one day and thereafter they did not call him. He stated that he did not collect union subscription for strike as well as for the union. Then the case was fixed for arguments. Arguments have been heard. I now give my findings issueswise.

ISSUES No. 1 AND 3—

The workman has also admitted that Shri Chakaria was the defence Assistant of the management in the enquiry. The workman himself has admitted that he took part in the enquiry proceedings on one day only. I have gone through the enquiry proceedings and the finding of the enquiry. The workman has signed the enquiry proceedings, dated 19th May, 1978 and received the copies of enquiry proceedings. The representative for the workman has also signed the enquiry proceeding, dated 26th May, 1978. These proceedings are also signed by the workman himself. The statement of M.W.-1 in the enquiry recorded by the Enquiry Officer has been signed by the workman. The workman refused to sign the statement of M.W.-1 Shri N. S. Walia, which is evident from the enquiry proceedings, but his representative had signed. Thereafter the workman stated that the statement of Shri Ram Pher was wrong and, therefore, he would not sign. When the workman did not sign this statement, his representation gave a remark "not value". Then Shri Jakaria told Shri Ram Pher, that the witness was deposing false and, therefore, they would not stay in the enquiry. Thereafter they left the enquiry. Thereafter the Enquiry Officer proceeded ex parte. The Enquiry Officer thereafter recorded the statement of M.W.-3. The enquiry was then concluded. The Enquiry Officer gave his finding on the basis of the statement recorded by him. His finding is based on evidence and is not perverse. The workman was found collecting subscription for union activities inside the factory. The names of persons contributing are given on the back of Ex. M-5. The subscription was being collected for strike. The finding of the Enquiry Officer is based on evidence. The domestic enquiry, I have not to substitute my judgment for the judgment of the Enquiry Officer. The evidence before the Enquiry Officer is of two witnesses. And in domestic enquiry, it is not my function to lay down quantum of witness or the quantum of evidence on which the Enquiry Officer should base his finding for holding the workman guilty. Moreover it is not the quantum of evidence alone, but the quality of evidence also that they inspire confidence. The Enquiry Officer believed two witnesses and gave his finding, but his finding is based on the evidence of these two witnesses, although three witnesses were examined by the management before the Enquiry Officer, out of whom one proved documents.

3. Moreover it is also an admitted fact that the workman was represented in the domestic enquiry by his representative. The workman and his representative both have signed the enquiry proceedings of one date. They have also signed the statement of M.W.-1. The representative for the workman also has signed the statement of M.W.-2, although the workman did not sign and when the workman did not sign, his representative gave a remark in that proceedings recording the statement of MW-2 as "not value" thereafter both of them left the enquiry proceedings. Thereafter the Enquiry Officer continued the enquiry proceedings after lunch and concluded it. Proceedings of the Enquiry Officer does not suffer from any lack of principles of natural justice. When the workman and his representative left, the Enquiry Officer could proceed ex-parte and he proceeded as such. Here the principles of natural justice did not suffer at all and the procedure adopted by the Enquiry Officer is neither invalid nor illegal. In these circumstances, I do not find any fault in enquiry proceeding, nor in the finding. The Enquiry Officer has discussed above. The management has dismissed the workman in accordance with their Standing Orders through which I have gone. I, therefore, decide issue No. 1 and 3 in favour of the management.

ISSUE No. 2—

There is no evidence on issue No. 2. This issue is not proved. This issue also does not require decision. As per my decision on the issues while answering the reference, I give my award that the termination of services of the workman concerned was justified and in order. He is not entitled to any relief.

Dated the 25th February, 1980.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.

Endst No. 182, dated 4th March, 1980.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

NATHU RAM SHARMA,
Presiding Officer,
Industrial Tribunal,
Haryana, Faridabad.